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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/849,842	05/04/2001	Anna Vadimovna Noyes	8121	3890

27752 7590 03/03/2003

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EXAMINER

HARDEE, JOHN R

ART UNIT

PAPER NUMBER

1751

DATE MAILED: 03/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

w/o traverse

6/5/00

**Office Action Summary**

Application No.

09/849,842

Applicant(s)

NOYES ET AL.

Examiner

John R Hardee

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 7-16, 21-23 and 26-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 5 is/are rejected.
- 7) ☒ Claim(s) 1-4, 6, 17-20, 24 and 25 is/are objected to.
- 8) ☒ Claim(s) 1-29 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4, 5, 6. 6) ☐ Other: .

**DETAILED ACTION**

1. Note that the original numbering of the claims ...9, 10, 12, 13... has been corrected. The pending claims are 1-29.

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-5, 17-20, 24 and 25, drawn to processes for treating fabric, classified in class 510, subclass 285.
  - II. Claim 6, drawn to a fluid, a cleaning composition or a lipophilic fluid, classified in various classes and subclasses.
  - III. Claim 7, drawn to a fabric refreshment composition, classified in class 8, various subclasses.
  - IV. Claim 8, drawn to a kit, classified in class 8, various subclasses.
  - V. Claim 9, drawn to the product of a process, classified in class 2, various subclasses.
  - VI. Claim 10, drawn to a method of cleaning, classified in class 134, subclass 42.
  - VII. Claim 11, drawn to a method of cleaning, classified in class 134, subclass 42.
  - VIII. Claims 12-16 , drawn to a method of cleaning, classified in class 134, subclass 42.
  - IX. Claim 21, drawn to an appliance, classified in class 68, subclass 1+.

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X. Claims 22 and 23, drawn to a method of cleaning an article, classified in class 134, subclass 42.

XI. Claims 26-29, drawn to a method of modifying the visual or tactile appearance of fabric, classified in class 8, various subclasses.

2. Inventions I and the other methods are distinct because they recite different steps. Invention I is not necessarily a part of the other methods. Group I and Groups II-IV are distinct because the compositions have other uses, or the fabric treatment may be performed with other compositions. I and V are distinct because fabric may be treated using other methods. I and IX are distinct because the appliance, which may be a washtub, a washing machine or drycleaning apparatus, may be used to perform other cleaning processes. Differences among the other groups are moot, because applicant elected Group I.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with Mr. Brant Cook on July 11, 2002 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-5, 17-20, 24 and 25. Affirmation of this election must be made by applicant in replying to this Office action. Claims 7-16, 21-23 and 26-29 were withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

### ***Claim Objections***

6. Claims 1-6, 17-20, 24 and 25 are objected to because of the following informalities: What is a fabric refreshment composition? Lacking any other guidance, the examiner takes this term to be synonymous with a fabric article refreshment composition, being 2000-3000 ppm of a fabric softener in combination with 1% of a coupling solvent and a lipophilic fluid, as that term is defined by applicant (specification, examples 1 and 2).

### ***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The fluid of step d is the fluid of step c by definition. The fluid of step d is "said lipophilic fluid" from step c.

***Allowable Subject Matter***

9. Claims 1-4, 6, 17-20, 24 and 25 would be allowed if the objection to the claims were overcome.

10. Claim 5 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

11. The following is an examiner's statement of reasons for allowance: The closest prior art of record is Madore et al., US 5,057,240. The reference discloses liquid detergent fabric softening compositions comprising a silicone fluid softening agent, a carrier fluid, a nonionic surfactant and an anionic surfactant (col. 3, lines 29-45). Example IV discloses a composition comprising a silicone, tallow trimethyl ammonium chloride, water and silicone. However, the compositions of the Madore reference comprise larger amounts of the cationic softening agent than appear to be encompassed by applicant's fabric refreshment compositions.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any prior art made of record and not relied upon is of interest and is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to the examiner, Dr. John R. Hardee, whose telephone

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number is (703) 305-5599. The examiner can normally be reached on Monday through Friday from 8:00 until 4:30. In the event that the examiner is not available, his supervisor, Dr. Yogendra Gupta, may be reached at (703) 308-4708.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

A handwritten signature in black ink, appearing to read "J. Hardee", written in a cursive style.

John R. Hardee  
Primary Examiner  
February 21, 2003